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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,457	04/20/2001	Paul F. Struhsaker	WEST14-00022	4833
7590	11/17/2003			EXAMINER GEORGE, KEITH M
William A. Munck, Esq. NOVAKOV DAVIS & MUNCK, P.C. 900 Three Galleria Tower 13155 Noel Road Dallas, TX 75240			ART UNIT 2663	PAPER NUMBER 4 DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/839,457	STRUHSAKER ET AL.
	Examiner Keith M. George	Art Unit 2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 April 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4 and 11-14 is/are rejected.
- 7) Claim(s) 5-10 and 15-20 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 April 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2 & 3</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. If applicant desires priority under 35 U.S.C. 119(e) or 35 U.S.C 120 based upon a previously filed application, specific reference to the earlier filed application must be made in the instant application. **For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.** This should appear as the first sentence of the specification following the title, preferably as a separate paragraph unless it appears in an application data sheet. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. _____" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time

period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A priority claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Drawings

2. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "100" has been used to designate a fixed wireless network in figure 1, the box around the flow chart in figure 7 and the box around the flow chart in figure 8. A proposed

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drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- a. On page 39, line 2, reference is made to TDD frames 321-324, however TDD frame 323 does not appear in figure 3.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

- a. In figure 3, reference sign 320;
- b. In figure 5A, reference sign 507.

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to because reference sign 600 appears twice in figure 6. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

7. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner

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has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Specification

8. The disclosure is objected to because of the following informalities:
 - a. On pages 1-6, the attorney docket numbers of the related applications should be removed and, if necessary, replaced with the serial number or, if issued as a patent, the patent number of the related applications;
 - b. On page 44, line 21, the phrase "on master ICP" should probably read "one master ICP";
 - c. On page 52, lines 9-10, the phrase "0 to N registration (REG) minislots 506" should probably read "0 to N registration (REG) minislots 507".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

10. If applicant desires priority under 35 U.S.C. 120 based upon application serial number 09/713,684, then claims 1-4 and 11-14 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Gilbert et al., U.S. Patent 6,016,311, hereinafter Gilbert.

11. If applicant does not desire priority under 35 U.S.C. 120, then claims 1-4 and 11-14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gilbert.

12. Referring to claims 1 and 11, Gilbert teaches an adaptive time division duplexing method and apparatus for dynamic bandwidth allocation within a wireless communication system including, as shown in figure 9, a cluster controller (frame allocation controller). The base stations (figure 4, 106), monitor the bandwidth requirements of their respective cells and report results back to the cluster controller (receiving from a modem shelf associated with a base station access requests generated by a group of wireless access devices) and accept updates and commands from the cluster controller thereby changing the uplink/downlink time slot allocations based upon the bandwidth requirements (determining from traffic requirements associated with the access requests a time duration of a longest downlink portion of TDD frames and determines a frame allocation of the downlink portion and the uplink portion of TDD frames used to communicate with the wireless access devices) (column 14, lines 1-6).

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13. Referring to claims 2 and 12, Gilbert teaches the cluster controller described in reference to claims 1 and 11 above and also teaches the Cluster Controller Analysis (column 16, line 46 - column 17, line 67) that provides greater detail of the calculations performed by the cluster controller. The cluster controller calculates the uplink and downlink requirements from the associated base stations and calculates a bandwidth allocation scheme. It is clear that the bandwidth allocations scheme prevents interference between base stations by allocating time slots based on the bandwidth needs of the channel (column 18, lines 23-28).

14. Referring to claims 3 and 13, Gilbert teaches the cluster controller described in reference to claims 2 and 12 above and also teaches that the cluster controller is responsible for the synchronization, control and management of the base stations (column 13, lines 51-52).

15. Referring to claims 4 and 14, Gilbert teaches the cluster controller described in reference to claims 3 and 13 above and also teaches that in the Cluster Controller Analysis, the cluster controller sums all of the downlink requirements from all associated base stations and then calculates an estimated bandwidth allocation scheme (column 17, lines 5-18).

Allowable Subject Matter

16. Claims 5-10 and 15-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Jones et al., U.S. Patent 6,490,256, teaches a more efficient and greater information throughput by taking into account the turn-around time of the subscriber devices of the wireless communication system.

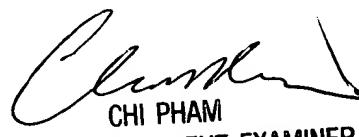
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith M. George whose telephone number is 703-305-6531. The examiner can normally be reached on M-Th 7:00-4:30, every other F 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 703-308-5340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.



Keith M. George
13 November 2003



CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 11/14/03